

Mail order delivery charges are considered separately agreed upon service charges so long as the mail order form requires a separate charge for delivery and so long as the charges designated as transportation or delivery, or shipping and handling, charges are actually reflective of the costs of such shipping, transportation or delivery. See 86 Ill. Adm. Code 130.415(d). (This is a GIL).

October 26, 2000

Dear Ms. Xxxxx:

This is in response to your letter dated August 30, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

It is requested that we be furnished written confirmation as to the correct application of sales and/or use tax on catalog transportation and handling charges under the following situations:

1. Will-Call Catalog Orders

A customer places an order with our catalog department and elects to have the merchandise shipped from our out-of-state catalog center to a local store for pick-up. Shipment is by common carrier. The catalog sales invoice reflects a separately stated 'transportation and handling' charge. Is this separately stated transportation and handling charge taxable?

2. Direct Ship Catalog Orders

A customer places an order with our catalog department and elects to have the merchandise shipped from our out-of-state catalog center directly to the customer's home. Shipment is by common carrier. The catalog sales invoice reflects a separately stated 'transportation and handling' charge. Is this separately state transportation and handling charge taxable?

Your prompt response is appreciated. Thank you for your assistance in this matter.

For your information and reference please find enclosed a copy of the Department's regulation on treatment of transportation and delivery charges under the Retailers' Occupation Tax Act, 86 Ill. Adm. Code 130.415. As you can see from the regulation, transportation and delivery charges, also designated as shipping and handling charges, are not taxable if it can be shown that the charges are

separately contracted for and the charges are actually reflective of the costs of shipping. To the extent the transportation and delivery charges exceed the costs of shipping, the charges will be subject to tax.

The best evidence that transportation and delivery charges have been contracted for separately by purchasers and retailers are separate and distinct contracts for transportation and delivery. However, documentation that demonstrates purchasers had the option of taking delivery of the property at the seller's location for the agreed purchase price, or having delivery made by the seller for the agreed purchase price plus an ascertained or ascertainable delivery charge will suffice. If retailers charge customers transportation or delivery charges that exceed the retailers' cost of providing the transportation or delivery, the excess is subject to tax.

Mail order delivery charges are considered separately agreed upon service charges so long as the mail order form requires a separate charge for delivery and so long as the charges designated as transportation or delivery, or shipping and handling, charges are actually reflective of the costs of such shipping, transportation or delivery. See 86 Ill. Adm. Code 130.415(d).

If, however, the transportation and delivery charges are included in the selling price of the property sold, then the charges are an element of the cost to the seller and are not deducted by the seller when computing Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.415(c). Furthermore, transportation or delivery charges that are incurred by the seller in acquiring tangible personal property for sale are merely costs of doing business and are also not deductible when computing the seller's Retailers' Occupation Tax liability, regardless of the fact that the seller passes such costs on to the customer by quoting and billing such costs separately from the selling price of the property being sold. See 130.415(e).

I hope this information has been helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Sincerely,

Dana Deen Kinion
Associate Counsel

DDK:msk